



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

Number: 76-30

Date: December 27, 1976

DETERMINATION OF WHOLESALE PRICE OF LARGE CIGARS

Manufacturers and Importers of Tobacco
Products and Others Concerned:

Purpose. This circular advises industry members and others concerned that, effective February 1, 1977, the basis for taxation of large cigars will be changed. An ATF Ruling will be published in the January 1977 ATF Bulletin which will establish a list of large cigar wholesale prices to be used by those manufacturers or importers who have no suggested delivered price to retailers, or where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, to properly determine the tax on removals of large cigars. The ruling will read substantially as follows:

The purpose of this ATF Ruling is to establish a list of large cigar wholesale prices to be used for tax purposes by those manufacturers and importers who have no suggested delivered price to retailers as contemplated by the definition of "wholesale price" in 26 U.S.C. 5702(m), as added by Public Law 94-455 (90 Stat. 1921), or where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales.

Public Law 94-455 (Tax Reform Act of 1976) amended 26 U.S.C. 5701(a) to change the basis for taxation of large cigars from seven tax classes, divided according to retail price, to a percentage tax based on the wholesale price. As of February 1, 1977, the new tax rate is 8½ percent of the wholesale price, with a maximum rate of \$20 per thousand cigars.

"Wholesale price" is defined in section 5702(m) as "the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold

to retailers, inclusive of the tax imposed by this chapter (Chapter 52) or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash or other discounts, or any promotion, advertising, display, or similar allowances. . . ."

Amended regulations promulgated pursuant to section 5702(m) become effective February 1, 1977. Sections 27 CFR 270.22 and 27 CFR 275.39 of those amended regulations provide that the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, will determine the wholesale price for tax purposes where the manufacturer or importer has no suggested delivered price to retailers as contemplated by the definition of wholesale price. The wholesale prices listed in this ruling are the prices for which cigars of comparable retail prices are sold to retailers in the ordinary course of trade, as determined pursuant to section 5702(m).

Under authority contained in 26 U.S.C. 5702(m), it is held that the wholesale prices contained in the following list shall be used by manufacturers and importers in properly determining the tax on removals of large cigars where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers. If a manufacturer or importer has cigars which are not covered by the list and for which he has no suggested delivered price to retailers, the manufacturer or importer shall submit a written request to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, for a determination of the wholesale price applicable to such cigars for tax purposes.

LARGE CIGAR WHOLESALE PRICE LIST

RETAIL PRICE (Price per cigar)	WHOLESALE PRICE FOR TAX PURPOSES (per one thousand cigars)
4¢	\$ 32.00
5¢	\$ 40.00
6¢	\$ 48.00
7¢	\$ 56.00
2/15¢	\$ 60.00
8¢	\$ 64.00

LARGE CIGAR WHOLESALE PRICE LIST (cont.)

<u>RETAIL PRICE</u> <u>(Price per cigar)</u>	<u>WHOLESALE PRICE</u> <u>FOR TAX PURPOSES</u> <u>(per one thousand cigars)</u>
9¢	\$ 72.00
10¢	\$ 80.00
11¢	\$ 88.00
12¢	\$ 96.00
2/25¢	\$100.00
13¢	\$104.00
2/27¢	\$108.00
14¢	\$112.00
15¢	\$120.00
16¢	\$128.00
3/50¢	\$135.00
17¢	\$135.00
18¢	\$139.00
3/55¢	\$141.00
19¢	\$146.00
20¢	\$154.00
21¢	\$162.00
22¢	\$169.00
23¢	\$177.00
24¢	\$185.00
25¢	\$195.00
26¢	\$200.00
27¢	\$208.00
2/55¢	\$211.00
28¢	\$215.00
29¢	\$223.00
30¢	\$230.00
3/92¢	\$235.00

Cigars having a retail price of more than three for \$.92 (\$.3067 each) are taxed at the maximum rate of \$20 per thousand cigars.

In cases where a manufacturer or importer has a cigar which has both a single unit price and a multiple unit retail price, the single unit retail price shall be used to determine the wholesale price on which the percentage tax shall be based. Multiple unit retail prices shall be used to determine the wholesale price only where the manufacturer has no single unit price for a particular cigar.

This ATF Ruling is effective February 1, 1977.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.



Rex D. Davis
Director

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
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